Application No.: 09/404,269 14 Docket No.: 07415/000G062-US0

#### <u>REMARKS</u>

Reconsideration of the application in light of the amendments and the following remarks is respectfully requested.

# **Status of the Claims**

Claims 2-21, 25-29 and 32 are pending. Claim 32 has been added. Claims 2, 15 and 25 have been amended. The amendment to claim 15 addresses an informality noted by the Applicants, and does not narrow the scope of the subject matter contained therein. No new matter is added.

## **Status of the Specification**

The Examiner has objected to the Specification for containing an embedded hyperlink. The embedded hyperlink has been removed from the Specification. No new matter has been added. Applicants request withdrawal of this objection.

## Rejection Under 35 U.S.C. § 102

Claims 2-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,832,448 to Brown.

The Examiner contends that Brown discloses a method for compiling health information performed by a computer controlled apparatus by establishing a database which receives a health statistic of the user, and which determines the health status of the user from the health statistic.

Applicants submit that Brown discloses a system for monitoring a group of patients having a chronic disease or ongoing health condition. Brown discloses collecting from each patient a set of measurements of a control parameter of the health condition. Brown discloses calculating a control value for each patient from the patient's set of measurements. The control value is a mean value of the control parameter values recorded by the patient over a specified time frame. (Brown, column 5, line 65 through column 6, line 20.)

Amended claim 2 is directed to a method of compiling health information and now recites "analyzing the health statistic to determine a health status from the health statistic, wherein the analyzing step includes statistically comparing data received from the health monitoring device and statistics derived from analysis of the plurality of health statuses of the plurality of users." Support for this amendment can be found in the Specification at page 9, lines 6-22. In contrast, Brown merely discloses calculating a mean value for each patient from the patient's own set of measurements, without comparison to statistics derived from health statuses of other users. Thus, Applicants submit that Brown does not disclose each and every element of amended claim 2. Therefore, Brown does not anticipate claim 2. Claims 3-21 depend from claim 2, and Applicants submit that claims 3-21 are patentable over Brown for at least the same reasons as claim 2. Applicants request withdrawal and reconsideration of the rejection.

Application No.: 09/404,269

16

Claims 25-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Brown.

Claims 25-29 also stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,966,692 to Langer et al. ("Langer").

The Examiner contends that either Brown or Langer disclose all the features of claim 25.

Applicants respectfully disagree. Brown merely discloses remote monitoring devices for collecting data from each patient. (Brown, column 9, line 41.) Langer discloses a system for monitoring the heart of a patient comprised of a remote station having means for generating an electrocardiogram of the patient, means for detecting predetermined cardiological events in the patient in communication with the generating means and a transmitter for transmitting the electrocardiogram to a central station. (Langer, column 1, lines 35-49.)

Amended claim 25 is directed to a method of submitting acoustical cardiovascular data to a central database and now recites "measuring the cardiovascular signal with the cardiovascular monitoring device while a startup routine performed by the computer is ongoing" and "receiving, at the computer after the startup routine, at least a portion of the detected cardiovascular signal of the user." Applicants respectfully note that the amendments to claim 25 do not change the scope of claim 25, and suggest that a further search would not be required. The Specification discloses that measurements of a patient's health statistics may be made by a health monitoring device during a startup routine performed by an attached personal computer. An electret transducer could be activated upon the startup routine performed by the PC when power to the PC is turned on. (Specification, page 3 and 13.) Measuring the cardiovascular signal while a computer's startup routine is being performed saves time and makes the data available for access by the computer once

Application No.: 09/404,269 17 Docket No.: 07415/000G062-US0

the computer is fully activated. In contrast, neither Brown nor Langer disclose measuring data from a patient while the computer startup routine is being performed. Thus, neither Brown nor Langer disclose each and every feature of amended claim 25. Therefore, neither Brown nor Langer anticipates amended claim 25. Claims 26-29 depend from claim 25, and Applicants submit that claims 26-29 are patentable over either Brown or Langer for at least the same reasons as claim 25.

#### **CONCLUSION**

Each and every point raised in the Final Office Action dated September 7, 2004 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 2-21, 25-29 and 32 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: December 7, 2004

Respectfully submitted,

Richard J. Katz

Registration No.: 47,698 DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 753-6237 (Fax)

Attorneys/Agents For Applicant